

**SERVICE AGREEMENT  
BETWEEN THE CITY OF SUNNYVALE AND KATHERINE F. MURDOCK  
FOR PERFORMANCE AUDITING SERVICES**

THIS AGREEMENT dated \_\_\_\_\_ is by and between the CITY OF SUNNYVALE, a municipal corporation ("CITY"), and KATHERINE F. MURDOCK, an individual ("CONTRACTOR").

WHEREAS, CITY is in need of specialized services in relation to a variety of performance audits; and

WHEREAS, CONTRACTOR possesses the skill and expertise to provide the required services;

NOW, THEREFORE, THE PARTIES ENTER INTO THIS AGREEMENT.

1. Services by CONTRACTOR

CONTRACTOR shall provide services in accordance with Exhibit "A" attached and incorporated by reference. CONTRACTOR shall determine the method, details and means of performing the services.

2. Time for Performance

The term of this Agreement shall be one year from the date of contract execution, unless otherwise terminated. The Agreement may be extended up to four (4) additional one-year periods at the option of City. Should City decide to exercise its option to extend the Agreement, written notice shall be given to CONTRACTOR at least sixty (60) days prior to the last day of each Agreement term.

3. Duties of CITY

CITY shall supply any documents or information available to City required by CONTRACTOR for performance of its duties. Any materials provided shall be returned to CITY upon completion of the work.

4. Compensation

CITY agrees to pay CONTRACTOR at the rate of Seventy and no/100 Dollars (\$70.00) per hour. Total compensation during the one-year term of this Agreement shall not exceed One Hundred Twenty Eight Thousand and Eight Hundred and no/100 Dollars (\$128,800.00). CONTRACTOR shall submit invoices to CITY no more frequently than monthly for services provided to date. Payment shall be made within thirty (30) days upon receipt by CITY's Accounts Payable Unit of an accurate invoice which clearly itemizes hours per audit.

5. Ownership of Documents

CITY shall have full and complete access to CONTRACTOR's working papers, drawings and other documents during progress of the work. All documents of any description prepared by CONTRACTOR shall become the property of the CITY at the completion of the project and upon payment in full to the CONTRACTOR. CONTRACTOR may retain a copy of all materials produced pursuant to this Agreement.

6. Conflict of Interest

No officer or employee of CITY shall have any interest, direct or indirect, in this Agreement or in the proceeds thereof. During the term of this Agreement CONTRACTOR shall not accept employment or an obligation which is inconsistent or incompatible with CONTRACTOR's obligations under this Agreement.

7. Confidential Information

CONTRACTOR shall maintain in confidence and at no time use, except to the extent required to perform its obligations hereunder, any and all proprietary or confidential information of CITY of which CONTRACTOR may become aware in the performance of its services.

8. Compliance with Laws

CONTRACTOR shall comply with all federal, state and city laws, statutes, ordinances, rules and regulations and the orders and decrees of any courts or administrative bodies or tribunals in any manner affecting the performance of the Agreement.

9. Independent Contractor

CONTRACTOR is acting as an independent contractor in furnishing the services or materials and performing the work required by this Agreement and is not an agent, servant or employee of CITY. Nothing in this Agreement shall be interpreted or construed as creating or establishing the relationship of employer and employee between CITY and CONTRACTOR. CONTRACTOR is responsible for paying all required state and federal taxes.

10. Indemnity

CONTRACTOR shall indemnify, defend, and hold harmless the CITY, its officers, officials, employees and volunteers from and against all claims, damages, losses and expenses, including attorney fees, arising out of the performance of the services described in Exhibit "A", caused in whole or in part by any negligent act or omission of CONTRACTOR, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, except where caused by the active negligence, sole negligence or willful misconduct of the CITY.

11. Insurance

CONTRACTOR shall take out and maintain during the life of this Agreement policies of insurance as specified in Exhibit "B" attached and incorporated by reference, and shall provide all certificates and endorsements as specified in Exhibit "B".

12. CITY Representative

Mary J. Bradley, Director of Finance, as the City Manager's authorized representative, shall represent CITY in all matters pertaining to the services to be rendered under this Agreement. All requirements of CITY pertaining to the services and materials to be rendered under this Agreement shall be coordinated through the CITY representative.

13. CONTRACTOR Representative

Katherine F. Murdock shall represent CONTRACTOR in all matters pertaining to the services and materials to be rendered under this Agreement; all requirements of CONTRACTOR pertaining to the services or materials to be rendered under this Agreement shall be coordinated through the CONTRACTOR representative.

14. Notices

All notices required by this Agreement shall be in writing, and shall be personally delivered, sent by first class with postage prepaid, or by commercial courier, addressed as follows:

To CITY: Mary J. Bradley  
Director of Finance  
CITY OF SUNNYVALE  
P. O. Box 3707  
Sunnyvale, CA 94088-3707

To CONTRACTOR: Katherine F. Murdock  
30 Newell Road, #19  
East Palo Alto, CA 94303

Nothing in this provision shall be construed to prohibit communication by more expedient means, such as by telephone or facsimile transmission, to accomplish timely communication. However, to constitute effective notice, written confirmation of a telephone conversation or an original of a facsimile transmission must be sent by first class mail or commercial carrier, or hand delivered. Each party may change the address by written notice in accordance with this paragraph. Notices delivered personally shall be deemed communicated as of actual receipt; mailed notices shall be deemed communicated as of two days after mailing, unless such date is a date on which there is no mail service. In that event communication is deemed to occur on the next mail service day.

15. Assignment

Neither party shall assign or sublet any portion of this Agreement without the prior written consent of the other party.

16. Termination

If CONTRACTOR defaults in the performance of this Agreement, or materially breaches any of its provisions, CITY at its option may terminate this Agreement by giving written notice to CONTRACTOR. If CITY fails to pay CONTRACTOR, CONTRACTOR at its option may terminate this Agreement if the failure is not remedied by CITY within thirty (30) days from the date payment is due.

Without limitation to such rights or remedies as CITY shall otherwise have by law, CITY also shall have the right to terminate this Agreement for any reason upon ten (10) days' written notice to CONTRACTOR. In the event of such termination, CONTRACTOR shall be compensated in proportion to the percentage of services performed or materials furnished (in relation to the total which would have been performed or furnished) through the date of receipt of notification from CITY to terminate. CONTRACTOR shall present CITY with any work product completed at that point in time.

17. Entire Agreement; Amendment

This writing constitutes the entire agreement between the parties relating to the services to be performed or materials to be furnished hereunder. No modification of this Agreement shall be effective unless and until such modification is evidenced by writing signed by all parties.

18. Miscellaneous

Time shall be of the essence in this Agreement. Failure on the part of either party to enforce any provision of this Agreement shall not be construed as a waiver of the right to compel enforcement of such provision or any other provision. This Agreement shall be governed and construed in accordance with the laws of the State of California.

IN WITNESS WHEREOF, the parties have executed this Agreement.

ATTEST:

CITY OF SUNNYVALE ("CITY")

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City Clerk

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City Manager

APPROVED AS TO FORM:  
(CONTRACTOR")

KATHERINE F. MURDOCK

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City Attorney

## **EXHIBIT “A”**

### **Scope of Services**

Under the direction of the Director of Finance or the Senior Internal Auditor, CONTRACTOR shall:

1. Conduct performance audits and follow-up audits of various City programs, including but not limited to, Solid Waste, SMaRT Station, Water Supply and Distribution, Utility Billing, Collection and Revenue Management and Public Safety programs.
2. Assist with the implementation of previous audit recommendations for various programs, including but not limited to, Development Services and Facilities Management.
3. Provide technical assistance and general consulting services for various programs, as required.

The parties agree that the programs to be audited during the term of this contract may change, based upon shifting priorities.

### **Audit Process**

Prior to beginning a specific audit, CONTRACTOR shall prepare a work plan, including estimated number of hours required to complete the audit, for review by the Director of Finance or the Senior Internal Auditor.

Throughout the course of the audit, CONTRACTOR shall provide regular progress reports to the Director of Finance or the Senior Internal Auditor.

At the conclusion of the audit, CONTRACTOR shall prepare a final audit report which shall include, at a minimum:

- An executive summary.
- A description of the audit methodology.
- Data analysis.
- Recommendations.

CONTRACTOR shall assist in the implementation of recommendations, as requested by the Director of Finance or Senior Internal Auditor.

**EXHBIT "B"**  
**INSURANCE REQUIREMENTS**

CONTRACTOR shall obtain, at its own expense and from an admitted insurer authorized to operate in California, the insurance coverage detailed below and shall submit Certificate(s) of Insurance to the City of Sunnyvale, Purchasing Division, 650 West Olive Ave, PO Box 3707, Sunnyvale, CA 94088-3707; fax (408) 730-7710.

CONTRACTOR shall take out and maintain during the life of the contract **Workers' Compensation** insurance coverage to statutory limits as may be required by law.

CONTRACTOR shall take out and maintain during the life of the contract such **Commercial General Liability Insurance** as shall protect CONTRACTOR, CITY, its officials, officers, directors, employees and agents from claims which may arise from services performed under the contract, whether such services are performed by CONTRACTOR, by CITY, its officials, officers, directors, employees or agents or by anyone directly or indirectly employed by either. The amount of insurance shall not be less than the following: Single Limit Coverage Applying to Bodily and Personal Injury Liability and Property Damage: \$1,000,000.

The liability insurance shall include, but shall not be limited to:

- Protection against claims arising from bodily and personal injury and damage to property, resulting from CONTRACTOR's or CITY's operations and use of owned or non-owned vehicles.
- Coverage on an "occurrence" basis.
- Broad form property damage liability. Deductible shall not exceed \$5000 without prior written approval of CITY.
- Notice of cancellation to CITY's Purchasing Division at least thirty (30) days prior to the cancellation effective date.

The following endorsements shall be attached to the liability insurance policy, and copies shall be submitted with the Certificate(s) of Insurance:

- The policy must cover complete contractual liability. Exclusions of contractual liability as to bodily injuries, personal injuries and property damage must be eliminated.
- CITY must be named as additional named insured with respect to the services being performed under the contract. *Simply indicating on the certificate that the certificate holder is named as additional insured is not acceptable; an endorsement must be provided.*
- The coverage shall be primary insurance so that no other insurance effected by CITY will be called upon to contribute to a loss under this coverage.